

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

Meeting Summary

Housing Affordability Work Group
General Assembly Building, House Room C
Richmond, Virginia
August, 21, 2008; 11:00 AM

Members Present: Delegate John Cosgrove, Delegate Bob Hull, Senator Mary Margaret Whipple, T. K. Somanath, Melanie Thompson, Ted McCormack, Mark Flynn, Connie Chamberlin, Bill Shelton, Kelly Harris-Braxton, Jim Naggles, Laura Lafayette, Brian Gordon, Ted Koebel, Chip Dicks, and Bob Adams.

I. Welcome and Call to Order-Delegate John Cosgrove, Chair

- a. The meeting was called to order by Delegate Cosgrove at 11:05 AM.

II. Federal Housing Trust Fund, Federal Housing and Economic Recovery Act of 2008

- a. *Bill Shelton, Director, Virginia Department of Housing and Community Development*

- i. Please see the power point presentation available online.
- ii. Congress adopted a federal Housing Trust which may be helpful in outlining a state housing trust fund.
- iii. **Delegate Hull**-*Is there a matching funds requirement from the states?*
- iv. No, but the Department of Housing and Urban Development (HUD) does have the rulemaking authority to request matching funds.
- v. **Delegate Hull**-*This sounds more like a poverty program than a housing problem. Virginia has a lot of housing needs that this doesn't address.*
- vi. **Senator Whipple**-*We should look for ways to make this work with a state housing trust fund. The state and local governments have a difficult time since they don't have enough money. There may be compatibility here.*
- vii. **T. K. Somanath**-*Could we have the localities setting up their own trust funds, rather than the state?*
- viii. I am sure that is possible. The legislation that was before us at the state level had that element in it.
- ix. **Ted Koebel**-*This would be critical in a lot of key deals, but too much regulation may make it impossible. It will make a difference even though it only addresses a small section.*

DELEGATE JOHN A. COSGROVE
DELEGATE ROSALYN R. DANCE
DELEGATE ROBERT D. HULL
DELEGATE DANIEL W. MARSHALL, III
DELEGATE TERRIE L. SUIT

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR MARY MARGARET WHIPPLE

F. GARY GARCZYNSKI
T. K. SOMANATH
MELANIE S. THOMPSON

III. SB 299-Real estate taxes, affordable rental housing classification (Whipple, 2008)

- a. *Senator Mary Margaret Whipple*
- b. *Chip Dicks, Virginia Association of Realtors*

IV. HB 391-Rental Inspection Districts (Bulova, 2008)

- a. *Andrew Wilson, Fire Marshall, City of Fairfax*
 - i. The bill was requested by the city council to allow the city to draw a rental district that would encompass the entire city.
 - ii. Inspections are required of houses that are used as rentals. It gives the owners and the tenants a level of comfort.
 - iii. There was a legislation change that requires a city to inspect only in the rental inspection district, and to define those districts.
 - iv. The problem is that by having defined districts you will have other areas that are carved out.
 - v. **Delegate Cosgrove**-*How many cities would be included in this bill?*
 - vi. The legislation would request 10 square miles. So all cities that fit that description.
 - vii. **Delegate Hull**-*Why didn't the city council just amend its charter so as not to affect things statewide?*
 - viii. I don't think they looked at it.
 - ix. **Delegate Hull**-*Perhaps that is a better route. When you make a change that affects the entire state then you have every locality making amendments.*
- b. *Chip Dicks, Virginia Association of Realtors*
 - i. The original bill involved a two year battle over rental inspection districts.
 - ii. In order for a rental inspection area to be adopted under the current law, it had to be shown that it was on the verge of blight and therefore required a rental inspection.
 - iii. Historically, the Town of Blacksburg wanted every rental property in the city to be inspected, which thus required them to declare that the entire town was on the verge of blight. Mark Flynn and I drafted this bill with lots of input from others. The rental inspection district has value but it should only target where there is a material building code problem. Then localities should be able to go in and do a rental inspection.
 - iv. Fairfax is asking to ignore that and have a city wide inspection which would require a fee and a schedule that is created at the city's discretion.
 - v. The authority for specific property designations is permitted in this legislation so that certain areas don't have to be considered deteriorating.
 - vi. This would undue the compromises that were worked out previously.
 - vii. **Andrew Wilson**-*A proposed ordinance on this matter is being taken to the city council. It is not our intention to request any authority other than to have a locality wide inspection district. We believe we should be allowed to inspect all rental units. We are trying to simplify the process.*
 - viii. **Delegate Cosgrove**-*When are you bringing this to the city council?*
 - ix. September 9th, 2008.

- x. **Delegate Cosgrove**-*Genuine concerns are raised, but vast applications across the Commonwealth are also a concern.*
- xi. **Delegate Hull**-*Are you trying to prevent fraternity houses because it seems this only comes up in college towns?*
- xii. No, it is aimed at all rental properties. The ones that are a problem are not leased by a management company and instead it is the individual owner who has not checked on their property.
- xiii. **Delegate Hull**-*If a person is charged and found guilty of these things they are fined and this provides a tremendous incentive.*
- xiv. Localities have to respond to tenant complaints. We have always had to deal with this.
- xv. **Senator Whipple**-*So, it is your belief that all this would do is create a locality wide inspection.*
- xvi. **T. K. Somanath**-*Don't you have the authority to handle spot blight abatement?*
- xvii. **Brian Gordon**-*The Apartment and Office Building Association was part of the discussion during the General Assembly session, and it seems to us that the jurisdiction has all of the authority that it needs to deal with this problem and we recommend that it not move forward.*
- xviii. **Chip Dicks**-*Let's wait and see how things work out with the city ordinance.*

V. Residential Disclosure Bills-*Chip Dicks, Virginia Association of Realtors*

- a. **HB 962-Residential Property Disclosure Act, disclosure of storm water detention facilities (Shannon, 2008)**
- b. **SB 454-Residential Property Disclosure Act, disclosure of storm water detention facilities (Petersen, 2008)**
 - i. The real estate disclosure act is still buyer beware, caveat emptor. The General Assembly tried to create an act where the seller would raise red flags about certain issues.
 - ii. There are several minimum mandatory disclosures that a seller must make to a prospective buyer.
 - iii. These bills tried to address a problem in the Town of Vienna.
 - iv. Properties are becoming more valuable than the house that is on them and the buyer is tearing down the house and building McMansions, but people don't know where the storm water management facility is located.
 - v. **Delegate Cosgrove**-*If no one knows where the facility is, how are sellers expected to disclose it?*
 - vi. **Mark Flynn**-*Significant storm water facilities are identified by an easement and would show up in a chain of title. There is no need to disclose them.*
 - vii. We don't see a benefit in adding an additional disclosure because no one knows where they are located and it should be a town municipal problem. In the alternative, if they are known they would be subject to an easement and would appear in a title search.
 - viii. **Senator Whipple**-*What would a red flag disclosure say?*

- ix. There is a form that was developed that discloses certain items that are in the statute that the seller must disclose. The only one that is affirmative is with respect to building code and zoning violations.
 - x. A suggested amendment was presented to the commission but the attorney for the Town of Vienna rejected these amendments.
 - xi. **Delegate Cosgrove**-*Would using this particular language in the amendment include ditches?*
 - xii. It would be storm water facilities as defined by the locality.
 - xiii. Under the old law, a latent defect was when someone sold the house "as is" and concealed a latent defect. There was no recourse against the seller. Now the buyer can sue the seller for concealing a latent defect. The question then becomes did the seller know of the storm water facility and did they conceal it?
 - xiv. **Mark Flynn**-*Perhaps at the end of line 55 language to the effect of, "which are known to the owner" could be added.*
 - xv. **Delegate Hull**-*When we changed the old law we were trying to streamline the disclosure laws. Is there something else that needs to be disclosed that are on the property? Is there anything beside the storm water facilities?*
 - xvi. Sanitation facilities.
 - xvii. **Delegate Cosgrove**-*If the Town of Vienna didn't like a reasonable compromise, because they aren't willing to add that language are we wasting our time? We need to check with Senator Petersen and see if he wants to go forward.*
- c. **HB 997-Residential Property Disclosure Act, condition of real property to include evidence of mold presence (Bell, 2008)**
- i. This bill has the same problems. It is picking up additional things which may create problems.
 - ii. **Delegate Hull**-*It is a Pandora's box when using the term "visible" for mold because mold is visible at different temperatures.*
 - iii. This stemmed from the landlord tenant mold bills. Conceptually we are only picking one item out of many that could be addressed. And if it is visible the home inspector would see it anyway.
 - iv. **Delegate Cosgrove**-*From a technical stand point, visible evidence is not specific and this would be difficult to define. With this particular language, I don't see any reason why this should be recommended.*
- d. **HB 1405-Residential Property Disclosure Act, disclosure of storage tanks (Hargrove, 2008)**
- i. The bill was created because Delegate Hargrove had been told that in some areas the tanks were put in the ground and as the homes have been sold, later owners did not know of them. This then required the seller to spend money to find them.
 - ii. **Delegate Cosgrove**-*How hard can it be to disclose above ground storage tanks?*
 - iii. I would agree that it is superfluous. The real discussion was focused on underground tanks.

- iv. **Mark Flynn**-*The language excludes home heating tanks, septic tanks, and farm and residential tanks less than a certain size. What are we trying to capture if all of these things are excluded?*
- v. **Connie Chamberlin**-*I have had experienced with property owners not knowing of the tanks existence.*
- vi. **Delegate Cosgrove**-*This may be in the same posture as the other disclosure bills.*

VI. Adjourn

- a. The meeting was adjourned at 1:12 PM.